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Attorney Docket #PNL21195
App. Ser. No. 09/919,717

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE #8

In re Application of :

Kenneth J. Susnjara et al. : Examiner Tom Sheng

App. Ser. No. 09/919,717 : Art Unit 2673

Filed: August 1, 2001 :

For: **VIRTUAL REALITY VIEWING SYSTEM AND METHOD**

PETITION UNDER 37 CFR §1.181 TO REISSUE OFFICE ACTION, AND IN THE ALTERNATIVE, PETITION FOR REVIVAL OF AN APPLICATION UNINTENTIONALLY ABANDONED

ATTN: Director 2600
Honorable Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the non-receipt of the outstanding Office Action mailed on or about April 28, 2003, Applicants hereby request the Director to withdraw the outstanding Office Actions's mailing date, reissue the Office Action with a new mailing date, and allow Applicant to prepare a proper response. In support of this petition, Applicant would advise as follows.

On August 1, 2001, Applicants filed the subject application for patent. The U.S. Patent & Trademark Office mailed an official filing receipt to Applicants on November 31, 2001 and mailed a Notice of Publication on February 6, 2003. On April 28, 2003, the Examiner issued an office action and on such day or soon thereafter, the Patent Office mailed the Office Action to the Applicant. However, such Office Action was never received by Applicants.

During a routine status check of the file on November 25, 2003, Applicants noted no action had been received from the Patent Office for more than two years following filing of the application and accordingly submitted a status inquiry to the Patent Office to learn of the

application's status. The Examiner for the application, in response to the status inquiry, contacted the undersigned on December 22, 2003 and informed of the outstanding Office Action. Pursuant to a request by attorney for Applicant, the Examiner faxed a copy of the Office Action to the undersigned on December 22, 2003.

All communications to Applicant are mailed to the attorneys for Applicant. The firm of Lalos & Keegan, to which each paper was addressed, merged into the firm of Stevens, Davis, Miller & Mosher, LLP on March 1, 2002. Prior to the termination of the practice of Lalos & Keegan, the U.S. Post Office was instructed to hold mail addressed to Lalos & Keegan. Following such request, Employees of the firms, Charlotte Bradford and John Hughes, at the direction of Charlotte Bradford, picked up all mail held at the Post Office at regular intervals of at least 2-3 days per week. In April of 2002, in order to expedite matters, the Post Office was instructed to deliver all mail addressed to Lalos & Keegan directly to the P.O. Box address for Stevens, Davis, Miller & Mosher, LLP. The Post Office to date continues to deliver all mail addressed to Lalos & Keegan directly to the Stevens Davis firm.

At no time was there any interruption of mail service between the Post Office and employees of the firms. This is evidenced by the receipt of the Filing Receipt before and the Notice of Publication received following such merger of firms. The Office Action mailed on or about April 28, 2003, however, was not received by either firm. A search of the docket records contained in the firms also confirms that this Office Action was not received. In verification of these facts, Applicants submit the declaration of Charlotte Bradford, attached herewith.

In view of the forgoing, Applicants submit that the Office Action mailed on or about April 28, 2003 was not received and that the director should withdraw the mailing date of such Office Action and reissue the Office Action with a new mailing date in order to allow Applicants to properly respond. The Commissioner is hereby authorized to charge any underpayment of

fees or credit any overpayment of fees in connection with this petition and communication to Deposit Account 19-4375.

Alternatively, if the Director believes that the failure of the Applicants to receive the Office Action on or about April 28, 2003 is the fault of the Applicants, Applicants hereby petition the Commissioner of Patents and Trademarks under 37 C.F.R. §1.137(b) to revive the application as being unintentionally abandoned. The entire delay in filing a response to the Office Action mailed on or about April 28, 2003 from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. §1.137(b) was unintentional. The Commissioner is authorized to charge the petition fee under 37 C.F.R. §1.17, to charge any underpayment of fees or credit any overpayment of fees in connection with this petition and communication to Deposit Account 19-4375. Further enclosed herewith is a proper response, a Request for Reconsideration, to the Office Action to accompany the petition to revive.

If any issues remain unresolved or need further information, the Director is requested to contact the undersigned to expedite resolution of such issues.

Respectfully submitted,

Peter N. Lalos
Reg. No. 19,789
STEVENS DAVIS MILLER & MOSHER, LLP
1615 L Street, N.W. Suite 850
Washington DC 20036
(202) 785-0100 Telephone

December 23, 2003

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: Examiner Tom Sheng

: Art Unit 2673

For: **VIRTUAL REALITY VIEWING SYSTEM AND METHOD**

REQUEST FOR RECONSIDERATION

Honorable Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Patent Office Communication mailed on or about April 28, 2003, Applicants request reconsideration of the rejection of the claims for the reasons that follow.

Claims 1-15 are pending in this application. The outstanding Office Action has rejected claims 1, 2, 6, 7, 9, 11, 14 and 15 as being unpatentable over Fernie et al. (US Pat. 5,933,125) in view of Newtonian dynamics; has rejected claims 3-5, 8 and 12, 13 as being unpatentable over Fernie et al. and Newtonian dynamics as applied to claim 1, and further in view of Fateh et al. (US Pat. 6,184,847); and has rejected claim 10 as being unpatentable over Fernie et al. and Newtonian dynamics as applied to claim 1, and further in view of Ishibashi et al. (US Pat. 6,215,461).

Applicants specifically traverse each of the rejections on the basis that neither Fernie nor Newton dynamics teach of either "generating spline corresponding to the magnitudes of each of said signals at said selected time intervals" (claim 10) or teach the means to perform such a step (claims 1 and 11) as asserted by the Examiner.[1] Fernie et al. teaches of using a current position

[1] Applicants note that the rejection of claim 10 also applies a third reference (Ishibashi et al.), however, that reference is not being applied as a teaching for generating a spline.

and subtracting or adding a display offset in order to display a real time image to the viewer corresponding to the viewer's current head position (See Fernie et al. Figure 3 and col. 4, line 59 to col. 5, line 10). The Examiner has then taken this teaching of Fernie et al. and asserted that Newtonian dynamic teaches of taking the head positions at two moments of time will give a slope to determine where the head will be in a later time (Office Action page 3, 2nd full paragraph).

However, Applicants submit that the Examiner misunderstands the invention. While Applicants do not dispute that extrapolating the slope of two head positions will indicate a line of direction, this completely fails to appreciate the virtual reality system of the present invention. There is no guarantee that two previous positions will guarantee a third. For example, if the viewer changes directions during measurement, the latent image will still be moving in the previous direction while the viewer looks towards another. Such can cause disorientation to the viewer. Such is a problem the present invention overcomes.

The present invention generates signals corresponding to "motions of said viewer" and generating a spline corresponding to the magnitudes of said signals. The present invention does not use the current head position to create an image, rather the present invention uses readings relating to the "motions" of the head, i.e., direction, velocity and acceleration. The system calculates the direction the viewer will be looking when the image finally reaches the display and creates the image from that direction rather than from the direction that the viewer was facing when the sensor readings were taken. Such a system allows the system to keep up with sudden changes in direction by the viewer. Since any combination of Fernie et al. and Newtonian dynamics fails to teach of generating a spline based on the motions of the viewer, they fail to teach each of the claims of Applicants' claimed invention.

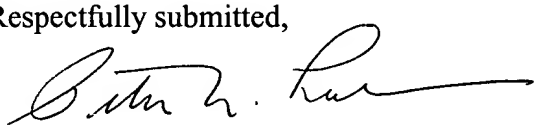
Additionally, the Office Actions fails to provide any suggestion or motivation to combine the teachings of Fernie et al. and Newtonian dynamics. It is not disputed that Fernie et al. discloses measuring a head position and it is also not disputed that using basic Newtonian

dynamics, one can extrapolate a slope based on previous positions. However, the fact that two references can be combined or one could modify the other to arrive at the claimed invention, or that such combination is well within the capabilities of one of ordinary skill is not dispositive of obviousness, there must be some suggestion or desirability to make the combination. See MPEP §2143.01. Here, the Examiner has not shown any suggestion or desirability to combine these references. If the Examiner maintains such a position, Applicants request that the Examiner provide evidence of such a suggestion.

Because of the dependency of claims 2-9 and 12-15 on claims 1, 10 and 11, Applicants traverse the rejections of these claims for the same reasons as above with respect to claims 1, 10 and 11.

In view of the forgoing, Applicants submit the rejection should be withdrawn and believe the application is in condition for allowance. An early action indication of such is earnestly solicited. However, if there are any issues that remain unresolved, the Examiner is invited to contact the undersigned to expedite a resolution to such issues. The Commissioner is hereby authorized to charge any underpayment of fees or credit any overpayment of fees in connection with this communication to Deposit Account 19-4375.

Respectfully submitted,



Peter N. Lalos
Reg. No. 19,789
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DECLARATION

ATTN: Director 2600
Honorable Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I, Charlotte Bradford, hereby declare that:

1. I have been an employee of the law firm of Lalos & Keegan, the practice of which merged into the firm of Stevens, Davis, Miller & Mosher, LLP, and am now an employee of Stevens, Davis, Miller & Mosher, LLP, as a paralegal.

2. Among my duties as a paralegal is the regular collection and docketing of mail received from the U.S. Patent & Trademark Office.

3. Prior to the merger, I instructed the U.S. Post Office to hold all mail addressed to Lalos & Keegan. Following the merger on March 1, 2002, I or John Hughes, another employee at my direction, collected all mail addressed to Lalos & Keegan being held by the Post Office. We did so at regular intervals of 2-3 times per week.

4. In April, 2002, I instructed the Post Office to discontinue holding the mail addressed to Lalos & Keegan and mail it directly to the P.O. Box for Stevens Davis Miller & Mosher, LLP.

5. At no time from prior to the merger until present, has the mail service to either Lalos & Keegan or Stevens, Davis, Miller & Mosher, LLP been interrupted.

6. At no time did anyone other than employees handle any of the mail addressed to either firm.

7. The Office Action, purportedly mailed on or about April 28, 2003, was never received by either firm.

8. A search of the docket records indicated receipt of a Filing receipt on October 31, 2001 and indicated receipt of a Notice of Publication on February 6, 2003.

9. A search of the docket records failed to indicate any receipt of the Office Action mailed on or about April 28, 2003.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Charlotte Bradford

Charlotte Bradford

December 23, 2002